

FORTY-FIRST DAY - MARCH 19, 2002

LEGISLATIVE JOURNAL

**NINETY-SEVENTH LEGISLATURE
SECOND SESSION**

FORTY-FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, March 19, 2002

PRAYER

The prayer was offered by Senator Byars.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Coordsen presiding.

The roll was called and all members were present except Senator Hartnett who was excused; and Senators Aguilar, Bromm, Brown, Burling, Cunningham, Dierks, Foley, Kristensen, Landis, McDonald, Raikes, Synowiecki, and Wickersham who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fortieth day was approved.

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Reengrossed

The following bills were correctly reengrossed: LBs 491 and 830.

**Enrollment and Review Change to LB 491
(Final Reading copy)**

The following changes, required to be reported for publication in the Journal, have been made:
ER9121

1. On page 1, line 2, ", and section 60-680, Revised Statutes Supplement, 2000" has been inserted after "Nebraska"; in line 3 "and the prohibition of the use of engine brakes" has been inserted after "contracts"; and in line 4 "section" has been struck and "sections" inserted.

Enrollment and Review Change to LB 830

The following changes, required to be reported for publication in the Journal, have been made:

ER9122

1. In the Bromm amendment, AM2903:

a. On page 17, lines 16 and 24; and page 18, lines 2, 8, 14, and 16, "shall be guilty of a Class III misdemeanor" has been inserted before the period;

b. On page 17, line 18, "and sections 8 to 12 of this act" has been inserted before the comma;

c. On page 18, line 16, "or" has been struck and shown as stricken; and in line 22 the comma has been struck and shown as stricken;

d. On page 20, line 12, "or" has been inserted after the last comma; and the matter beginning with "an" in line 15 through line 17 has been struck and "a retail value of more than ten thousand five hundred dollars increased by five hundred dollars every five years thereafter." inserted; and

e. On page 40, line 24, the first "and" has been struck and a comma inserted and a comma has been inserted after "registration".

(Signed) Philip Erdman, Chairperson

STANDING COMMITTEE REPORTS
Revenue

LEGISLATIVE BILL 905. Placed on General File as amended.

Standing Committee amendment to LB 905:

AM3154

1 1. Strike original section 14.

2 2. On page 10, line 1, strike "July 1, 2002" and insert

3 "January 1, 2003"; and in line 2 strike "July 1, 2002" and insert

4 "January 1, 2003".

LEGISLATIVE BILL 1085. Placed on General File as amended.

(Standing Committee amendment, AM3155, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

(Signed) William R. Wickersham, Chairperson

MESSAGE FROM THE GOVERNOR

March 18, 2002

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills LB 21e, 58, 93, 112, 176, 188, 235, 235A, 251, 326, 326A, 385, 417, 446, 458, 499, 545, 547, 547A, 604, 616e, 719, 752, 848e, 848Ae, 435, and 435A were received in my office on March 13, 2002.

I signed the legislative bills listed above on March 18, 2002, and they were delivered to the Secretary of State.

Sincerely,
(Signed) Mike Johanns
Governor

UNANIMOUS CONSENT - Member Excused

Senator Bruning asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 830A. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 9 present and not voting, and 15 excused and not voting.

ANNOUNCEMENT

The Chair announced that Saturday was Senator Brashear's birthday.

GENERAL FILE

LEGISLATIVE BILL 1073. Senator Smith renewed his pending amendment, AM3054, found on page 965.

Senator Smith requested a record vote on his amendment.

Voting in the affirmative, 10:

Brashear	Cudaback	Engel	Quandahl	Tyson
Coordsen	Dierks	Jensen	Smith	Vrtiska

Voting in the negative, 16:

Baker	Hudkins	McDonald	Stuhr
Beutler	Janssen	Price	Suttle
Byars	Kremer	Robak	Thompson
Conneally	Landis	Schimek	Wehrbein

Present and not voting, 14:

Bourne	Cunningham	Kruse	Pederson, D.	Schrock
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Brown	Erdman	Maxwell	Preister	Synowiecki
Chambers	Jones	Pedersen, Dw.	Redfield	

Excused and not voting, 9:

Aguilar	Bruning	Foley	Kristensen	Wickersham
Bromm	Burling	Hartnett	Raikes	

The Smith amendment lost with 10 ayes, 16 nays, 14 present and not voting, and 9 excused and not voting.

Senator Dw. Pedersen renewed his pending amendment, AM3039, found on page 884 and considered on page 959.

Senator Dw. Pedersen withdrew his amendment.

Senator Smith offered the following amendment:

AM3158

- 1 1. Strike original section 4 and insert the following
- 2 new section:
- 3 "Sec. 3. This act becomes operative on may 1, 2003."
- 4 2. On page 2, lines 11 and 20, strike "effective" and
- 5 insert "operative".
- 6 3. Renumber the remaining section accordingly.

Senator Smith withdrew his amendment.

Senator Smith withdrew his pending amendment, AM3148, found on page 1003.

Senator Thompson offered the following amendment:

FA916

"Strike Section 4 of the bill"

The Thompson amendment was adopted with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

Senator Thompson moved for a call of the house. The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

Senator Thompson requested a roll call vote, in reverse order, on the advancement of the bill.

Voting in the affirmative, 25:

Beutler	Hudkins	Maxwell	Raikes	Suttle
Bourne	Janssen	Pedersen, Dw.	Robak	Synowiecki
Brown	Jensen	Pederson, D.	Schimek	Thompson
Byars	Kruse	Preister	Schrock	Vrtiska

Connealy	Landis	Price	Stuhr	Wehrbein
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Voting in the negative, 16:

Baker	Cudaback	Jones	Redfield
Brashear	Cunningham	Kremer	Smith
Chambers	Dierks	McDonald	Tyson
Coordsen	Erdman	Quandahl	Wickersham

Present and not voting, 1:

Engel

Excused and not voting, 7:

Aguilar	Bruning	Foley	Kristensen
Bromm	Burling	Hartnett	

Advanced to E & R for review with 25 ayes, 16 nays, 1 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 1073A. Title read. Considered.

Senators Dierks, Dw. Pedersen, and Wehrbein asked unanimous consent to be excused until they return. No objections. So ordered.

Senator Chambers moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator Chambers requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 16:

Beutler	Janssen	Landis	Schimek
Chambers	Jensen	Preister	Schrock
Connealy	Kristensen	Price	Stuhr
Cudaback	Kruse	Raikes	Wickersham

Voting in the negative, 21:

Baker	Cunningham	Maxwell	Smith	Vrtiska
Bourne	Engel	McDonald	Suttle	
Brashear	Erdman	Pederson, D.	Synowiecki	
Burling	Jones	Quandahl	Thompson	
Coordsen	Kremer	Redfield	Tyson	

Present and not voting, 4:

Brown Byars Hudkins Robak

Excused and not voting, 8:

Aguilar Bruning Foley Pedersen, Dw.
Bromm Dierks Hartnett Wehrbein

Failed to advance to E & R for review with 16 ayes, 21 nays, 4 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

AMENDMENTS - Print in Journal

Senator Smith filed the following amendments to LB 1073:

AM3159

- 1 1. On page 4, line 5, strike "A", show as stricken, and
- 2 insert "Except as provided in subsection (3) of this section, a".
- 3 2. On page 5, after line 5, insert the following new
- 4 subsection:
- 5 "(3) Persons transporting two or more children from more
- 6 than one family in a single vehicle at the same time shall be
- 7 exempt from the requirements of subsection (1) of section 60-6,267
- 8 and shall be issued a warning citation for failing to provide a
- 9 child restraint system for more than one child in the same vehicle
- 10 at the same time, as required in such subsection.".

AM3178

- 1 1. On page 4, line 5, strike "A", show as stricken, and
- 2 insert "Except as provided in subsection (3) of this section, a".
- 3 2. On page 5, after line 5, insert the following new
- 4 subsection:
- 5 "(3) Persons transporting children in a motor vehicle
- 6 bearing license plates from a state other than Nebraska shall be
- 7 exempt from the requirements of subsection (1) of section 60-6,267
- 8 and shall be issued a warning citation for failing to provide a
- 9 child restraint system as required in such subsection.".

Senator Schimek filed the following amendment to LB 1054:

AM3167

- 1 1. Insert the following new section:
- 2 "Sec. 10. Section 32-231, Revised Statutes Supplement,
- 3 2000, is amended to read:
- 4 32-231. (1) Each judge and clerk of election appointed
- 5 pursuant to section 32-230 shall (a) be of good repute and
- 6 character and able to read and write the English language, (b)
- 7 reside in the precinct in which he or she is to serve unless
- 8 necessity demands that personnel be appointed from another

9 precinct, (c) be a registered voter, and (d) serve for a term of
 10 two years or until judges and clerks of election are appointed for
 11 the next primary election. No candidate at an election shall be
 12 eligible to serve as a judge or clerk of election at the same
 13 election other than a candidate for a delegate to a county, state,
 14 or national political party convention.

15 (2) The county clerk may appoint district inspectors to
 16 aid the county clerk in the performance of his or her duties and
 17 supervise a group of precincts on election day. A district
 18 inspector shall meet the requirements for judges and clerks of
 19 election as provided in subsection (1) of this section, shall
 20 oversee the procedures of a group of polling places, and shall act
 21 as the personal agent and deputy of the county clerk. The district
 22 inspector shall ensure that the Election Act is uniformly enforced
 23 at the polling places assigned to him or her and perform tasks
 24 assigned by the county clerk. The district inspector may perform
 1 all of the duties required of a judge or clerk of election, ~~or a~~
 2 ~~precinct inspector~~."

3 2. On page 9, strike beginning with "as" in line 27
 4 through "inspectors" in line 28.

5 3. On page 10, strike line 1 and insert "appoint other
 6 persons".

7 4. On page 24, line 18, after the last comma insert
 8 "32-231,".

9 5. Renumber the remaining sections and correct internal
 10 references accordingly.

Senator Schimek filed the following amendment to LB 1073:
 AM2940

1 1. Insert the following new sections:

2 "Section 1. Section 28-101, Revised Statutes Supplement,
 3 2000, is amended to read:

4 28-101. Sections 28-101 to 28-1348 and section 2 of this
 5 act shall be known and may be cited as the Nebraska Criminal Code.

6 Sec. 2. (1) The purpose of this section is to help
 7 prevent injuries to, and the deaths of, young children from the
 8 effects of being left alone in a motor vehicle and to authorize a
 9 fine to be imposed on a person for leaving a young child alone in a
 10 motor vehicle.

11 (2) Any person who leaves a child six years of age or
 12 younger unattended in a motor vehicle is guilty of an infraction.
 13 The minimum fine for violation of this section is one hundred
 14 dollars.

15 (3) For purposes of this section, unattended means the
 16 person does not have the direct ability to care for or come to the
 17 aid of the child.

18 (4) It is not a violation of this section if the child is
 19 being supervised by a competent person of at least twelve years of
 20 age.

21 (5) This section does not apply if the child is injured
22 or receives medical attention as a result of a violation of this
23 section.

24 (6) A violation of this section does not preclude
1 prosecution under section 28-707 or any other law.".

2 2. On page 5, line 6, strike "60-6,267" and insert

3 "28-101, 60-6,267,".

4 3. Renumber the remaining sections accordingly.

Senator D. Pederson filed the following amendment to LB 1168:
AM3168

1 1. Insert the following new sections:

2 "Sec. 5. (1) No railroad company shall allow the
3 operation of any freight train or locomotive in over-the-road
4 movements in this state unless the freight train or locomotive has
5 a crew of at least two railroad company employees.

6 (2) For purposes of sections 5 to 7 of this act:

7 (a) Over-the-road movements means the transport of
8 locomotives attached to freight cars or other locomotives and does
9 not include hostler and helper movements or mechanical or
10 incidental movements; and

11 (b) Railroad company means any individual, partnership,
12 firm, limited liability company, corporation, company, society, or
13 association managing, maintaining, operating, or in possession of a
14 railroad in whole or in part within this state whether as owner or
15 contractor. The term also includes any form of nonhighway ground
16 transportation that runs on rails or electromagnetic guideways and
17 any entity providing such transportation.

18 Sec. 6. Section 5 of this act does not apply if the
19 United States Secretary of Transportation, through the Federal
20 Railroad Administration, prescribes a regulation or issues an order
21 covering the subject matter of the state requirement.

22 Sec. 7. Any railroad company that violates section 5 of
23 this act is subject to a first offense fine of not less than one
24 hundred dollars, a second offense fine of not less than two hundred
1 fifty dollars, and a third offense fine of five hundred dollars.

2 All fines shall apply to each freight train or locomotive operated
3 on each day of operation in this state, shall be enforced by the
4 Public Service Commission, and shall be remitted to the State
5 Treasurer for credit to the permanent school fund.

6 Sec. 8. If any section in this act or any part of any
7 section is declared invalid or unconstitutional, the declaration
8 shall not affect the validity or constitutionality of the remaining
9 portions, therefor, such portions shall be severable."

10 2. Renumber the remaining section accordingly.

SPEAKER KRISTENSEN PRESIDING

GENERAL FILE

LEGISLATIVE BILL 479. Title read. Considered.

The Standing Committee amendment, AM0763, found on page 933, First Session, 2001, was considered.

Senator Jensen renewed his pending amendment, AM3132, found on page 1003, to the Standing Committee amendment.

Senators Schimek and Suttle asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 303, 304, 305, 306, 307, 308, 309, 310, 311, and 312 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 303, 304, 305, 306, 307, 308, 309, 310, 311, and 312.

GENERAL FILE

LEGISLATIVE BILL 479. The Jensen pending amendment, AM3132, found on page 1003 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

SENATOR CUDABACK PRESIDING

Senator Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Jensen moved for a call of the house. The motion prevailed with 17 ayes, 0 nays, and 32 not voting.

The Jensen amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Senator Beutler offered the following amendment to the Standing Committee amendment:

FA915

Amend AM0763

Strike lines 1 through 3

Senator Beutler withdrew his amendment.

The Standing Committee amendment, as amended, was adopted with 25 ayes, 1 nay, 16 present and not voting, and 7 excused and not voting.

Senator Hudkins moved for a call of the house. The motion prevailed with 22 ayes, 0 nays, and 27 not voting.

Senator Hudkins requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 19:

Brashear	Foley	Kremer	Price	Synowiecki
Burling	Hudkins	Kruse	Robak	Thompson
Cunningham	Janssen	McDonald	Schimek	Tyson
Erdman	Jones	Pedersen, Dw.	Stuhr	

Voting in the negative, 21:

Baker	Chambers	Landis	Redfield	Wickersham
Beutler	Connealy	Pederson, D.	Schrock	
Bourne	Coordsen	Preister	Smith	
Brown	Engel	Quandahl	Vrtiska	
Byars	Jensen	Raikes	Wehrbein	

Present and not voting, 2:

Cudaback	Maxwell
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Excused and not voting, 7:

Aguilar	Bruning	Hartnett	Suttle
Bromm	Dierks	Kristensen	

Failed to advance to E & R for review with 19 ayes, 21 nays, 2 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

RESOLUTION

LEGISLATIVE RESOLUTION 316. Introduced by Burling, 33.

WHEREAS, the NAIA Division II National Championship match for 2002 saw a classic meeting of superior teams from Hastings College and Cornerstone (Michigan); and

WHEREAS, the Hastings College Lady Broncos after a superbly hard-fought contest emerged triumphant with an exciting 73 to 69 victory; and

WHEREAS, the skill, determination, tenacity, and teamwork exhibited by the Lady Broncos was emblematic of the finest traditions of Nebraska

student athletics; and

WHEREAS, the Hastings community and the State of Nebraska can be proud of these students, their team, their coaches, and their school; and

WHEREAS, the Legislature should publicly recognize the talent, commitment, dedication, and accomplishments of these students and the support of the coaches and staff of Hastings College.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature extends its heartiest congratulations to the members of the 2002 Hastings College Lady Broncos NAIA Division II National Champion Basketball Team and the coaches.

2. That a copy of this resolution be presented, on behalf of the team and Hastings College, to the Lady Broncos head coach, Tony Hobson.

Laid over.

AMENDMENTS - Print in Journal

Senator Landis filed the following amendment to LB 488:
AM3143

(Amendments to Standing Committee amendments, AM2603)

- 1 1. On page 5, line 9, after the period insert "The
- 2 Director of Motor Vehicles may contract with a designated agent for
- 3 the purpose of establishing and operating the motor vehicle
- 4 insurance data base and monitoring compliance with the financial
- 5 responsibility requirements of sections 2 to 5 of this act.".
- 6 2. On page 6, line 24, before the period insert "
- 7 except that the Director of Motor Vehicles may reconvene the task
- 8 force at any time thereafter if he or she deems it necessary."
- 9 3. On page 9, strike beginning with "(1)" in line 9
- 10 through line 24 and insert "Failure by an insurance company subject
- 11 to sections 2 to 5 of this act to comply with the requirements of
- 12 such sections and the rules and regulations adopted and promulgated
- 13 under such sections by the Director of Motor Vehicles shall be an
- 14 unfair trade practice in the business of insurance subject to the
- 15 Unfair Insurance Trade Practices Act.".

Senator Schimek filed the following amendment to LB 1086:
AM3166

- 1 1. Insert the following new section:
- 2 "Section 1. Any advertising or promotional materials
- 3 relating to programs administered by the Governor, Lieutenant
- 4 Governor, Secretary of State, Attorney General, Auditor of Public
- 5 Accounts, or State Treasurer may include references to the public
- 6 office but shall not refer to the officeholder by name.".
- 7 2. Renumber the remaining sections accordingly.

Senator Kremer filed the following amendment to LB 777:

AM3125

(Amendments to Standing Committee amendments, AM0742)

- 1 1. On page 2, line 13, strike "Published a", show as
- 2 stricken, and insert "Provided"; in line 14 strike "in each region"
- 3 and insert "by publication in a newspaper of general circulation in
- 4 each county in that portion"; in line 19 strike "and natural
- 5 resources district" and insert ", natural resources district, and
- 6 public power district"; and in line 25 strike "thirty", show as
- 7 stricken, and insert "sixty".
- 8 2. On page 3, line 7, after "conclusions" insert ", If
- 9 the commission submits the data to a state or federal fish and
- 10 wildlife agency for peer review, the commission shall also submit
- 11 the data to scientists or experts not affiliated with such an
- 12 agency for review. For purposes of this section, state fish and
- 13 wildlife agency does not include a postsecondary educational
- 14 institution"; strike line 10 and insert "subsection, developed an
- 15 outline of the potential impacts, requirements, or"; in line 12
- 16 after "rights" insert "on behalf of themselves or others"; and in
- 17 line 24 strike "and outline" and insert ", including an explanation
- 18 of any changes or modifications the commission has made to its
- 19 proposal as a result of the peer review, and the outline required
- 20 under subdivision (b)(viii) of this subsection".

Senator Kremer filed the following amendment to LB 1003:

AM3126

- 1 1. Insert the following new section:
- 2 "Sec. 19. Section 37-806, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 37-806. (1) Any species of wildlife or wild plants
- 5 determined to be an endangered species pursuant to the Endangered
- 6 Species Act shall be an endangered species under the Nongame and
- 7 Endangered Species Conservation Act, and any species of wildlife or
- 8 wild plants determined to be a threatened species pursuant to the
- 9 Endangered Species Act shall be a threatened species under the
- 10 Nongame and Endangered Species Conservation Act. The commission
- 11 may determine that any such threatened species is an endangered
- 12 species throughout all or any portion of the range of such species
- 13 within this state.
- 14 (2) In addition to the species determined to be
- 15 endangered or threatened pursuant to the Endangered Species Act,
- 16 the commission shall by regulation determine whether any species of
- 17 wildlife or wild plants normally occurring within this state is an
- 18 endangered or threatened species as a result of any of the
- 19 following factors:
- 20 (a) The present or threatened destruction, modification,
- 21 or curtailment of its habitat or range;
- 22 (b) Overutilization for commercial, sporting, scientific,
- 23 educational, or other purposes;
- 24 (c) Disease or predation;

- 1 (d) The inadequacy of existing regulatory mechanisms; or
2 (e) Other natural or manmade factors affecting its
3 continued existence within this state.
- 4 (3)(a) The commission shall make determinations required
5 by subsection (2) of this section on the basis of the best
6 scientific, commercial, and other data available to the commission.
- 7 (b) Except with respect to species of wildlife or wild
8 plants determined to be endangered or threatened species under
9 subsection (1) of this section, the commission may not add a
10 species to nor remove a species from any list published pursuant to
11 subsection (5) of this section unless the commission has first:
- 12 ~~(a) Published a~~ (i) Provided public notice of such
13 proposed action by publication in a newspaper of general
14 circulation in each county in that portion of the subject species'
15 range in which it is endangered or threatened;
- 16 (ii) Provided notice of such proposed action to and
17 allowed comment from the Governor and state agencies;
- 18 (iii) Provided notice of such proposed action to and
19 allowed comment from each county, natural resources district, and
20 public power district located in that portion of the subject
21 species' range in which it is endangered or threatened;
- 22 ~~(b) (iv)~~ (iv) Notified the Governor of any state sharing a
23 common border with this state, in which the subject species is
24 known to occur, that such action is being proposed; and
- 25 ~~(c) (v)~~ (v) Allowed at least thirty sixty days following
26 publication for comment from the public and other interested
27 parties;
- 1 (vi) Held at least one public hearing on such proposed
2 action in each region of the subject species' range in which it is
3 endangered or threatened;
- 4 (vii) Submitted the scientific, commercial, and other
5 data which is the basis of the proposed action to scientists or
6 experts outside and independent of the commission for peer review
7 of the data and conclusions. If the commission submits the data to
8 a state or federal fish and wildlife agency for peer review, the
9 commission shall also submit the data to scientists or experts not
10 affiliated with such an agency for review. For purposes of this
11 section, state fish and wildlife agency does not include a
12 postsecondary educational institution; and
- 13 (viii) For species proposed to be added under this
14 subsection but not for species proposed to be removed under this
15 subsection, developed an outline of the potential impacts,
16 requirements, or regulations that may be placed on private
17 landowners, or other persons who hold state-recognized property
18 rights on behalf of themselves or others, as a result of the
19 listing of the species or the development of a proposed program for
20 the conservation of the species as required in subsection (1) of
21 section 37-807.
- 22 (c) When the commission is proposing to add or remove a

23 species under this subsection, public notice under subdivision
24 (3)(b)(i) of this section shall include, but not be limited to, (i)
25 the species proposed to be listed and a description of that portion
26 of its range in which the species is endangered or threatened, (ii)
27 a declaration that the commission submitted the data which is the
1 basis for the listing for peer review and developed an outline if
2 required under subdivision (b)(viii) of this subsection, and (iii)
3 a declaration of the availability of the peer review, including an
4 explanation of any changes or modifications the commission has made
5 to its proposal as a result of the peer review, and the outline
6 required under subdivision (b)(viii) of this subsection, if
7 applicable, for public examination.
8 (d) In cases when the commission determines that an
9 emergency situation exists involving the continued existence of
10 such species as a viable component of the wild fauna or flora of
11 the state, the commission may add species to such lists after
12 having first published a public notice that such an emergency
13 situation exists together with a summary of facts which support
14 such determination.
15 (4) In determining whether any species of wildlife or
16 wild plants is an endangered or threatened species, the commission
17 shall take into consideration those actions being carried out by
18 the federal government, by other states, by other agencies of this
19 state or political subdivisions thereof, or by any other person
20 which may affect the species under consideration.
21 (5) The commission shall issue regulations containing a
22 list of all species of wildlife and wild plants normally occurring
23 within this state which it determines, in accordance with
24 subsections (1) through (4) of this section, to be endangered or
25 threatened species and a list of all such species. Each list shall
26 refer to the species contained therein by scientific and common
27 name or names, if any, and shall specify with respect to each such
1 species over what portion of its range it is endangered or
2 threatened.
3 (6) Except with respect to species of wildlife or wild
4 plants determined to be endangered or threatened pursuant to the
5 Endangered Species Act, the commission shall, upon the petition of
6 an interested person, conduct a review of any listed or unlisted
7 species proposed to be removed from or added to the lists published
8 pursuant to subsection (5) of this section, but only if the
9 commission publishes a public notice that such person has presented
10 substantial evidence which warrants such a review.
11 (7) Whenever any species of wildlife or wild plants is
12 listed as a threatened species pursuant to subsection (5) of this
13 section, the commission shall issue such regulations as are
14 necessary to provide for the conservation of such species. The
15 commission may prohibit, with respect to any threatened species of
16 wildlife or wild plants, any act prohibited under subsection (8) or
17 (9) of this section.

- 18 (8) With respect to any endangered species of wildlife,
19 it shall be unlawful, except as provided in subsection (7) of this
20 section, for any person subject to the jurisdiction of this state
21 to:
- 22 (a) Export any such species from this state;
 - 23 (b) Take any such species within this state;
 - 24 (c) Possess, process, sell or offer for sale, deliver,
25 carry, transport, or ship, by any means whatsoever except as a
26 common or contract motor carrier under the jurisdiction of the
27 Public Service Commission or the Interstate Commerce Commission,
1 any such species; or
 - 2 (d) Violate any regulation pertaining to the conservation
3 of such species or to any threatened species of wildlife listed
4 pursuant to this section and promulgated by the commission pursuant
5 to the Nongame and Endangered Species Conservation Act.
- 6 (9) With respect to any endangered species of wild
7 plants, it shall be unlawful, except as provided in subsection (7)
8 of this section, for any person subject to the jurisdiction of this
9 state to:
- 10 (a) Export any such species from this state;
 - 11 (b) Possess, process, sell or offer for sale, deliver,
12 carry, transport, or ship, by any means whatsoever, any such
13 species; or
 - 14 (c) Violate any regulation pertaining to such species or
15 to any threatened species of wild plants listed pursuant to this
16 section and promulgated by the commission pursuant to the act.
- 17 (10) Any endangered species of wildlife or wild plants
18 which enters this state from another state or from a point outside
19 the territorial limits of the United States and which is being
20 transported to a point within or beyond this state may be so
21 entered and transported without restriction in accordance with the
22 terms of any federal permit or permit issued under the laws or
23 regulations of another state.
- 24 (11) The commission may permit any act otherwise
25 prohibited by subsection (8) of this section for scientific
26 purposes or to enhance the propagation or survival of the affected
27 species.
- 1 (12) Any law, regulation, or ordinance of any political
2 subdivision of this state which applies with respect to the taking,
3 importation, exportation, possession, sale or offer for sale,
4 processing, delivery, carrying, transportation other than under the
5 jurisdiction of the Public Service Commission, or shipment of
6 species determined to be endangered or threatened species pursuant
7 to the Nongame and Endangered Species Conservation Act shall be
8 void to the extent that it may effectively (a) permit that which is
9 prohibited by the act or by any regulation which implements the act
10 or (b) prohibit that which is authorized pursuant to an exemption
11 or permit provided for in the act or in any regulation which
12 implements the act. The Nongame and Endangered Species

13 Conservation Act shall not otherwise be construed to void any law,
14 regulation, or ordinance of any political subdivision of this state
15 which is intended to conserve wildlife or wild plants."
16 2. Renumber the remaining sections and correct the
17 repealer accordingly.

Senator Brashear filed the following amendment to LB 496:
(Amendment, AM2567, may be found in the Bill Books. The amendment
has been printed separately and is on file in the Bill Room - Room 1102.)

Senator Brashear filed the following amendment to LB 496:
(Amendment, AM2568, may be found in the Bill Books. The amendment
has been printed separately and is on file in the Bill Room - Room 1102.)

VISITORS

Visitors to the Chamber were 17 students and teacher from Ralston High School; Elton Mendenhall from Malcolm; 70 fifth-grade students from Fremont; 30 third- and fourth-grade students and teachers from Hooper and Nickerson; and twelfth-grade students and teacher of the government class from Eustis-Farnam.

RECESS

At 11:59 a.m., on a motion by Senator Redfield, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

ROLL CALL

The roll was called and all members were present except Senator Hartnett who was excused; and Senators Bruning and Byars who were excused until they arrive.

SPEAKER KRISTENSEN PRESIDING

GENERAL FILE

LEGISLATIVE BILL 1310. Title read. Considered.
The Standing Committee amendment, AM3035, printed separately and referred to on page 996, was considered.

Senator Brashear requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:
(Amendment, FA917, is on file in the Clerk's Office - Room 2018.)

The first Standing Committee amendment was adopted with 32 ayes, 1 nay, 14 present and not voting, and 2 excused and not voting.

The second Standing Committee amendment is as follows:
FA918

23 Sec. 21. (1) It is the intent of the Legislature, to the
24 extent permissible by law, to reduce General Fund appropriations
25 for the Public Service Commission. Because the commission is a
26 regulatory agency, the Legislature finds that persons regulated by
27 the commission should be responsible for the regulatory costs and
1 expenses of the commission, including a proportionate share of
2 administrative costs and expenses.

3 (2) To reduce dependence upon General Fund
4 appropriations, it is the intent of the Legislature that the
5 commission:

6 (a) Adopt a funding mechanism by January 1, 2006, which
7 may include fees and assessments, for each regulated area within
8 the commission's jurisdiction so that the proceeds collected defray
9 the commission's regulatory costs and expenses related to each
10 regulated area of jurisdiction; and

11 (b) Develop a procedure to annually review the funding
12 mechanism for each regulated area and adjust the funding mechanism,
13 as necessary, to defray the commission's regulatory costs and
14 expenses for each regulated area.

15 (3) The commission shall file a written report with the
16 Clerk of the Legislature on or before December 1 of each year
17 through 2005. The report shall include, for each regulated area
18 within the commission's jurisdiction, the commission's regulatory
19 costs and expenses, the funding mechanism, the amount of proceeds
20 collected, and any recommendations for legislation concerning the
21 funding mechanism.

22 Sec. 22. (1) The Public Service Commission has
23 regulatory authority over telecommunications companies as
24 prescribed in the Intrastate Pay-Per-Call Regulation Act, the
25 Nebraska Telecommunications Universal Service Fund Act, the
26 Telecommunications Relay System Act, the Telephone Consumer
27 Slamming Prevention Act, and sections 75-109, 75-604 to 75-617,
1 86-801 to 86-811, 86-1001 to 86-1009, 86-1201 to 86-1222, 86-2201
2 to 86-2214, and 86-2301 to 86-2307.

3 (2) In order to defray the costs and expenses of the
4 commission relating to the regulation of telecommunications
5 companies, the commission shall, prior to January 1, 2004, adopt
6 and promulgate rules and regulations to establish and implement a
7 fair and equitable funding mechanism for telecommunications
8 companies regulated by the commission, which funding mechanism may

9 include, but is not limited to, fees and assessments. The funding
10 mechanism shall be based on the commission's regulatory costs and
11 expenses relating to telecommunications companies, including
12 administrative costs and expenses, which may reasonably be
13 anticipated for the year in which such funding mechanism is
14 applicable. The commission shall annually review the funding
15 mechanism and adjust it, as necessary, to defray the commission's
16 regulatory costs and expenses relating to telecommunications
17 companies.
18 (3) The commission shall remit any proceeds collected
19 under a funding mechanism adopted pursuant to this section to the
20 State Treasurer for credit to the Telecommunications Regulation
21 Administration Cash Fund.
22 (4) The Telecommunications Regulation Administration Cash
23 Fund is created. The fund shall be used for the costs and expenses
24 of the commission relating to the regulation of telecommunications
25 companies as described in this section. Any money in the fund
26 available for investment shall be invested by the state investment
27 officer pursuant to the Nebraska Capital Expansion Act and the
1 Nebraska State Funds Investment Act.

Senator Cudaback asked unanimous consent to be excused until he returns.
No objections. So ordered.

Senator Dw. Pedersen moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 1 nay, and 21 not voting.

The second Standing Committee amendment lost with 9 ayes, 32 nays, 6 present and not voting, and 2 excused and not voting.

Senator Chambers offered the following amendment:

FA919

Amend FA917

Strike section 8.

SENATOR COORDSEN PRESIDING

Senator Bourne asked unanimous consent to be excused. No objections. So ordered.

Senator Kristensen asked unanimous consent to be excused until he returns.
No objections. So ordered.

Senator Chambers moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Aguilar	Connealy	Maxwell	Price	Synowiecki
Brown	Dierks	McDonald	Robak	Tyson
Byars	Janssen	Pedersen, Dw.	Schimek	
Chambers	Jensen	Preister	Suttle	

Voting in the negative, 27:

Baker	Coordsen	Jones	Raikes	Vrtiska
Beutler	Cunningham	Kremer	Redfield	Wehrbein
Brashear	Engel	Kruse	Schrock	Wickersham
Bromm	Erdman	Landis	Smith	
Bruning	Foley	Pederson, D.	Stuhr	
Burling	Hudkins	Quandahl	Thompson	

Excused and not voting, 4:

Bourne	Cudaback	Hartnett	Kristensen
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The Chambers amendment lost with 18 ayes, 27 nays, and 4 excused and not voting.

The Chair declared the call raised.

Pending.

SELECT COMMITTEE REPORTS Enrollment and Review

LEGISLATIVE BILL 687. Placed on Select File as amended.

(E & R amendment, AM7196, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

LEGISLATIVE BILL 564. Placed on Select File as amended.

(E & R amendment, AM7188, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

LEGISLATIVE BILL 460. Placed on Select File as amended.

E & R amendment to LB 460:

AM7185

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 79-4,110, Revised Statutes
- 4 Supplement, 2000, is amended to read:
- 5 79-4,110. A Class I district of which forty eight
- 6 percent or more of the district's valuation is affiliated with a

7 single Class II or III district shall not merge, dissolve, or
8 reorganize unless:

9 (1) ~~The All~~ Class II or III ~~district districts~~ with which
10 ~~fifty eight~~ percent or more of the Class I district's valuation is
11 affiliated ~~is~~ are also reorganizing in the same reorganization
12 plan, petition, or election and that plan, petition, or election
13 requires approval by either the school ~~board or such boards or~~
14 legal voters of such Class II or III ~~district districts~~;

15 (2) ~~Fifty percent or more of the The~~ Class I district's
16 valuation is being merged with ~~such the~~ Class II or III ~~district~~
17 districts with which the property is affiliated;

18 (3) The Class I district has been participating in a
19 unified system for a minimum of seven school fiscal years and the
20 unified system includes at least one Class II or III district
21 reorganizing in the same reorganization plan or petition; or

22 (4) The school ~~board of the boards of all~~ Class II or III
23 ~~district districts~~ with which ~~fifty eight~~ percent or more of the
24 Class I district's valuation is affiliated ~~votes vote~~ to approve
1 the plan or petition.

2 Sec. 2. Section 79-1027, Revised Statutes Supplement,
3 2001, is amended to read:

4 79-1027. No district shall adopt a budget, which
5 includes ~~total requirements of contingency funds~~, total
6 requirements of depreciation funds, necessary employee benefit fund
7 cash reserves, and necessary general fund cash reserves, exceeding
8 the applicable allowable reserve percentages of total general fund
9 budget of expenditures as specified in the schedule set forth in
10 this section.

11	Average daily	Allowable
12	membership of	reserve
13	district	percentage
14	0 - 471	45
15	471.01 - 3,044	35
16	3,044.01 - 10,000	25
17	10,000.01 and over	20

18 On or before February 1, the department shall determine
19 and certify each district's applicable allowable reserve
20 percentage.

21 Each district with combined necessary general fund cash
22 reserves, total requirements of depreciation funds, and necessary
23 employee benefit fund cash reserves; ~~and total requirements of~~
24 ~~contingency funds~~ less than the applicable allowable reserve
25 percentage specified in this section may, notwithstanding the
26 district's applicable allowable growth percentage, increase its
27 necessary general fund cash reserves by an amount which will
1 ~~increase its combined necessary general fund cash reserves, total~~
2 ~~requirements of depreciation funds, necessary employee benefit fund~~
3 ~~cash reserves, and total requirements of contingency funds by two~~
4 ~~percent of its total general fund budget of expenditures, except~~

5 that ~~(1) a district shall not increase such necessary general fund~~
 6 ~~cash reserves when such increase will result in such that the total~~
 7 ~~necessary general fund cash reserves, total requirements of~~
 8 ~~depreciation funds, and necessary employee benefit fund cash~~
 9 ~~reserves; and total requirements of contingency funds which exceed~~
 10 ~~the do not exceed such applicable allowable reserve percentage.~~
 11 ~~and (2) a district may increase such necessary general fund cash~~
 12 ~~reserves in excess of such two percent limitation due to projected~~
 13 ~~increases in federal funds.~~

14 Sec. 3. Sections 1, 3, 5, and 6 of this act become
 15 operative on their effective date. The other sections of this act
 16 become operative three calendar months after adjournment of this
 17 legislative session.

18 Sec. 4. Original section 79-1027, Revised Statutes
 19 Supplement, 2001, is repealed.

20 Sec. 5. Original section 79-4,110, Revised Statutes
 21 Supplement, 2000, is repealed.

22 Sec. 6. Since an emergency exists, this act takes effect
 23 when passed and approved according to law."

24 2. On page 1, strike beginning with "the" in line 1
 25 through line 7 and insert "schools; to amend section 79-4,110,
 26 Revised Statutes Supplement, 2000, and section 79-1027, Revised
 27 Statutes Supplement, 2001; to change provisions relating to
 1 reorganization of certain Class I districts as prescribed; to
 2 change provisions relating to applicable allowable reserve
 3 percentages pursuant to the Tax Equity and Educational
 4 Opportunities Support Act; to provide operative dates; to repeal
 5 the original sections; and to declare an emergency."

LEGISLATIVE BILL 1139. Placed on Select File as amended.

E & R amendment to LB 1139:

AM7186

1 1. On page 1, strike beginning with the second "to" in
 2 line 1 through line 2 and insert "to amend sections 44-1527,
 3 44-2127, 44-2845, 44-32,161, 44-4834, 44-4842, 44-4859, 44-5120,
 4 44-5260, 44-5261, 44-5601, 44-5603, 44-5814, 44-5815, and 44-6916,
 5 Reissue Revised Statutes of Nebraska, sections 44-787, 44-5223,
 6 44-5225, 44-5504, 44-6901, 44-6918, 44-7505, 44-7509, 44-7510,
 7 44-7511, 44-7513, and 44-7515, Revised Statutes Supplement, 2000,
 8 and section 44-5503, Revised Statutes Supplement, 2001; to adopt
 9 the Multiple Employer Welfare Arrangement Act; to provide
 10 penalties; to change provisions relating to investigations,
 11 mergers, medical review panels, priority of claims, bonding
 12 requirements, securities, the Small Employer Health Insurance
 13 Availability Act, filing requirements, reinsurance, group health
 14 plans, and rates and forms; to require certification of coverage;
 15 to nullify an exclusion; to harmonize provisions; and to repeal the
 16 original sections."

17 2. On page 5, line 6; and page 8, line 9, after

18 "benefit" insert "plan".

LEGISLATIVE BILL 276. Placed on Select File as amended.
E & R amendment to LB 276:

AM7190

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 28-101, Revised Statutes Supplement,
- 4 2000, is amended to read:
- 5 28-101. Sections 28-101 to 28-1348 and sections 4 to 6
- 6 of this act shall be known and may be cited as the Nebraska
- 7 Criminal Code.
- 8 Sec. 2. Section 28-608, Reissue Revised Statutes of
- 9 Nebraska, is amended to read:
- 10 28-608. (1) A person commits the crime of criminal
- 11 impersonation if he or she:
- 12 (a) Assumes a false identity and does an act in his or
- 13 her assumed character with intent to gain a pecuniary benefit for
- 14 himself, herself, or another; or to deceive or harm another; ~~or~~
- 15 (b) Pretends to be a representative of some person or
- 16 organization and does an act in his or her pretended capacity with
- 17 the intent to gain a pecuniary benefit for himself, herself, or
- 18 another; and to deceive or harm another; ~~or~~
- 19 (c) Carries on any profession, business, or any other
- 20 occupation without a license, certificate, or other authorization
- 21 required by law; or
- 22 (d) Without the authorization or permission of another
- 23 and with the intent to deceive or harm another;
- 24 (i) Obtains or records personal identification documents
- 25 or personal identifying information; and
- 26 (ii) Accesses or attempts to access the financial
- 27 resources of another through the use of a personal identification
- 28 document or personal identifying information for the purpose of
- 29 obtaining credit, money, goods, services, or any other thing of
- 30 value.
- 31 (2)(a) Criminal impersonation is a Class III felony if
- 32 the credit, money, goods, services, or other thing of value that
- 33 was gained or was attempted to be gained was one thousand five
- 34 hundred dollars or more.
- 35 (b) Criminal impersonation is a Class IV felony if the
- 36 credit, money, goods, services, or other thing of value that was
- 37 gained or was attempted to be gained was five hundred dollars or
- 38 more but less than one thousand five hundred dollars.
- 39 (c) Criminal impersonation is a Class I misdemeanor if
- 40 the credit, money, goods, services, or other thing of value that
- 41 was gained or was attempted to be gained was two hundred dollars or
- 42 more but less than five hundred dollars. Any second or subsequent
- 43 conviction under this subdivision is a Class IV felony.
- 44 (d) Criminal impersonation is a Class II misdemeanor if

21 no credit, money, goods, services, or other thing of value was
22 gained or was attempted to be gained, or if the credit, money,
23 goods, services, or other thing of value that was gained or was
24 attempted to be gained was less than two hundred dollars. Any
25 second conviction under this subdivision is a Class I misdemeanor,
26 and any third or subsequent conviction under this subdivision is a
27 Class IV felony.

1 (e) A person found guilty of violating this section may,
2 in addition to the penalties under this subsection, be ordered to
3 make restitution pursuant to sections 29-2280 to 29-2289.

4 (3) Criminal impersonation does not mean:

5 (a) The lawful obtaining of credit information in the
6 course of a bona fide consumer or commercial transaction;

7 (b) The lawful, good faith exercise of a security
8 interest or a right of setoff by a creditor or a financial
9 institution; or

10 (c) The lawful, good faith compliance by any person when
11 required by any warrant, levy, garnishment, attachment, court
12 order, or other judicial or administrative order, decree, or
13 directive.

14 (4) For purposes of this section:

15 (a) Personal identification document means a birth
16 certificate, motor vehicle operator's license, state identification
17 card, public, government, or private employment identification
18 card, social security card, visa work permit, firearm owner's
19 identification card, certificate issued under section 69-2404, or
20 passport or any document made or altered in a manner that it
21 purports to have been made on behalf of or issued to another person
22 or by the authority of a person who did not give that authority.
23 Personal identification document does not include a financial
24 transaction device as defined in section 28-618;

25 (b) Personal identifying information means any name or
26 number that may be used, alone or in conjunction with any other
27 information, to identify a specific person including a person's:

1 (i) Name; (ii) date of birth; (iii) address; (iv) motor vehicle
2 operator's license number or state identification card number as
3 assigned by the State of Nebraska or another state; (v) social
4 security number or visa work permit number; (vi) public, private,
5 or government employer, place of employment, or employment
6 identification number; (vii) maiden name of a person's mother;
7 (viii) number assigned to a person's credit card, charge card, or
8 debit card, whether issued by a financial institution, corporation,
9 or other business entity; (ix) number assigned to a person's
10 depository account, savings account, or brokerage account; (x)
11 personal identification number as defined in section 8-157.01; (xi)
12 electronic identification number, address, or routing code used to
13 access financial information; (xii) digital signature; (xiii)
14 telecommunications identifying information or access device; (xiv)
15 unique biometric data, such as fingerprint, voice print, retina or

16 iris image, or other unique physical representation; and (xv) other
17 number or information which can be used to access a person's
18 financial resources; and
19 (c) Telecommunications identifying information or access
20 device means a card, plate, code, account number, mobile
21 identification number, or other telecommunications service,
22 equipment, or instrument identifier or means of account access that
23 alone or in conjunction with other telecommunications identifying
24 information or another telecommunications access device may be used
25 to: (i) Obtain money, goods, services, or any other thing of
26 value; or (ii) initiate a transfer of funds other than a transfer
27 originated solely by a paper instrument. Criminal impersonation is
1 a Class II misdemeanor.

2 Sec. 3. Section 28-620, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 28-620. (1) A person commits the offense of unauthorized
5 use of a financial transaction device if such person uses such
6 device in an automated banking device, to imprint a sales form, or
7 in any other manner:

8 (a) For the purpose of obtaining money, credit, property,
9 or services or for making financial payment, with intent to
10 defraud;

11 (b) With notice that the financial transaction device is
12 expired, revoked, or canceled;

13 (c) With notice that the financial transaction device is
14 forged, altered, or counterfeited; or

15 (d) When for any reason his or her use of the financial
16 transaction device is unauthorized either by the issuer or by the
17 account holder.

18 (2) For purposes of this section, notice shall mean
19 either notice given in person or notice given in writing to the
20 account holder, by registered or certified mail, return receipt
21 requested, duly stamped and addressed to such account holder at his
22 or her last address known to the issuer. Such notice shall be
23 evidenced by a returned receipt signed by the account holder which
24 shall be prima facie evidence that the notice was received.

25 (3) Any person committing the offense of unauthorized use
26 of a financial transaction device shall be guilty of:

27 (a) A Class II misdemeanor if the total value of the
1 money, credit, property, or services obtained or the financial
2 payments made are less than ~~seventy-five~~ two hundred dollars within
3 a six-month period from the date of the first unauthorized use;

4 (b) A Class I misdemeanor if the total value of the
5 money, credit, property, or services obtained or the financial
6 payments made are ~~seventy-five~~ two hundred dollars or more but less
7 than ~~three~~ five hundred dollars within a six-month period from the
8 date of the first unauthorized use;

9 (c) A Class IV felony if the total value of the money,
10 credit, property, or services obtained or the financial payments

11 made are ~~three~~ five hundred dollars or more but less than one
12 thousand five hundred dollars within a six-month period from the
13 date of the first unauthorized use; and

14 (d) A Class III felony if the total value of the money,
15 credit, property, or services obtained or the financial payments
16 made are one thousand five hundred dollars or more within a
17 six-month period from the date of the first unauthorized use.

18 (4) Any prosecution under this section may be conducted
19 in any county where the person committed the offense or any one of
20 a series of offenses to be aggregated.

21 (5) Once aggregated and filed, no separate prosecution
22 for an offense arising out of the same series of offenses
23 aggregated and filed shall be allowed in any county.

24 Sec. 4. For purposes of this section and sections 5 and
25 6 of this act:

26 (1) Merchant means an owner or operator of any retail
27 mercantile establishment or any agent, employee, lessee, consignee,
1 officer, director, franchisee, or independent contractor of such
2 owner or operator. Merchant also includes a person who receives
3 from an authorized user of a payment card, or someone the person
4 believes to be an authorized user, a payment card or information
5 from a payment card, or what the person believes to be a payment
6 card or information from a payment card, as the instrument for
7 obtaining, purchasing, or receiving goods, services, money, or
8 anything else of value from the person;

9 (2) Payment card means a credit card, charge card, or
10 debit card that is issued to an authorized card user and that
11 allows the user to obtain, purchase, or receive goods, services,
12 money, or anything else of value from a merchant;

13 (3) Person means an individual, firm, partnership,
14 association, corporation, limited liability company, or other
15 business entity;

16 (4) Reencoder means an electronic device that places
17 encoded information from the magnetic strip or stripe of a payment
18 card onto the magnetic strip or stripe of a different payment card;
19 and

20 (5) Scanning device means a scanner, a reader, or any
21 other electronic device that is used to access, read, scan, obtain,
22 memorize, or store, temporarily or permanently, information encoded
23 on the magnetic strip or stripe of a payment card.

24 Sec. 5. (1) A person that accepts a payment card for the
25 transaction of business shall print no more than the last five
26 digits of the payment card account number upon any receipt provided
27 to the payment card holder.

1 (2) This section applies only to receipts that are
2 electronically printed and does not apply to any transaction in
3 which the only means of recording the payment card number is by
4 handwriting or by an imprint or copy of the payment card.

5 (3) A violation of this section is a Class III

6 misdemeanor for the first offense and a Class I misdemeanor for a
7 second or subsequent offense.
8 (4)(a) This section becomes operative on January 1, 2004,
9 with respect to any cash register or other machine or device that
10 electronically prints receipts for payment card transactions and
11 that is originally put into use on or after January 1, 2004.
12 (b) This section becomes operative on January 1, 2007,
13 with respect to any cash register or other machine or device that
14 electronically prints receipts for payment card transactions and
15 that is originally put into use before January 1, 2004.
16 Sec. 6. (1) It is unlawful for a person to use:
17 (a) A scanning device to access, read, scan, obtain,
18 memorize, or store, temporarily or permanently, information encoded
19 on the magnetic strip or stripe of a payment card without the
20 permission of the authorized user of the payment card and with the
21 intent to defraud the authorized user, the issuer of the authorized
22 user's payment card, or a merchant; or
23 (b) A reencoder to place information encoded on the
24 magnetic strip or stripe of a payment card onto the magnetic strip
25 or stripe of a different card without the permission of the
26 authorized user of the card from which the information is being
27 reencoded and with the intent to defraud the authorized user, the
1 issuer of the authorized user's payment card, or a merchant.
2 (2) A violation of this section is a Class IV felony for
3 the first offense and a Class IIIA felony for a second or
4 subsequent offense.
5 Sec. 7. Original sections 28-608 and 28-620, Reissue
6 Revised Statutes of Nebraska, and section 28-101, Revised Statutes
7 Supplement, 2000, are repealed."
8 2. On page 1, line 2, strike "28-512" and insert
9 "28-608"; and strike lines 4 through 9 and insert "change
10 provisions and penalties relating to criminal impersonation and
11 financial transaction devices; to provide for restitution; to
12 prohibit the printing of payment card numbers and the use of
13 scanning devices or reencoders as prescribed; to provide penalties;
14 to harmonize provisions; and to repeal the original sections."

LEGISLATIVE BILL 1003. Placed on Select File as amended.

(E & R amendment, AM7187, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

LEGISLATIVE BILL 1168. Placed on Select File as amended.

E & R amendment to LB 1168:

AM7189

- 1 1. On page 2, line 13, strike the comma and strike "the
- 2 fatigue issue" and insert "worker fatigue issues".

LEGISLATIVE BILL 1054. Placed on Select File as amended.

E & R amendment to LB 1054:

AM7192

- 1 1. On page 1, line 2, after "32-241," insert "32-624,";
- 2 and in line 9 after the first comma insert "candidate filing
- 3 forms,".
- 4 2. On page 5, line 25; page 14, lines 8 and 15; and page
- 5 17, lines 15 and 19, strike "15" and insert "16".

LEGISLATIVE BILL 873. Placed on Select File as amended.

E & R amendment to LB 873:

AM7191

- 1 1. On page 1, line 3, strike "and"; and in line 4 after
- 2 "section" insert "; and to declare an emergency".

LEGISLATIVE BILL 912. Placed on Select File as amended.

E & R amendment to LB 912:

AM7195

- 1 1. On page 1, strike beginning with "farm" in line 1
- 2 through line 5 and insert "the Farm Mediation Act; to amend section
- 3 2-4816, Reissue Revised Statutes of Nebraska; to change the
- 4 termination date; and to repeal the original section.".

LEGISLATIVE BILL 932. Placed on Select File.

LEGISLATIVE BILL 951. Placed on Select File.

LEGISLATIVE BILL 1018. Placed on Select File as amended.

E & R amendment to LB 1018:

AM7193

- 1 1. On page 1, line 1, strike "section 23-906" and insert
- 2 "sections 23-906 and 23-1302"; and in line 3 after "budgets" insert
- 3 "and county clerk duties" and strike "section" and insert
- 4 "sections".

LEGISLATIVE BILL 1094. Placed on Select File as amended.

E & R amendment to LB 1094:

AM7194

- 1 1. On page 32, line 12, strike "said", show as stricken,
- 2 and insert "the".

LEGISLATIVE BILL 1148. Placed on Select File.

LEGISLATIVE BILL 830A. Placed on Select File.

(Signed) Philip Erdman, Chairperson
STANDING COMMITTEE REPORTS
Education

LEGISLATIVE BILL 898. Placed on General File as amended.

(Standing Committee amendment, AM3171, may be found in the Bill Books. The amendment has been printed separately and is on file in the Bill Room - Room 1102.)

LEGISLATIVE BILL 1252. Placed on General File as amended.
Standing Committee amendment to LB 1252:
AM3172

- 1 1. Strike original sections 2 and 19 and insert the
- 2 following new section:
- 3 "Sec. 19. Since an emergency exists, this act takes
- 4 effect when passed and approved according to law."
- 5 2. On page 10, line 7, after "(40)" insert "Temporary
- 6 aid adjustment factor means 1.25 percent of the sum of the local
- 7 system's transportation allowance, the local system's special
- 8 receipts allowance, and the product of the local system's adjusted
- 9 formula students multiplied by the average formula cost per student
- 10 in the local system's cost grouping;
- 11 (41)"; in line 24 strike "(41)", show as stricken, and
- 12 insert "(42)"; and in line 28 strike "(42)", show as stricken, and
- 13 insert "(43)".
- 14 3. On page 11, line 7, strike "years" through "2004-05"
- 15 and insert "year 2002-03".
- 16 4. On page 12, strike beginning with "years" in line 11
- 17 through "(2)" in line 23 and insert "year 2002-03:"
- 18 (1)".
- 19 5. On page 13, line 3, strike "(3)" and insert "(2)"; in
- 20 lines 4, 12, and 15 strike "(2)" and insert "(1)"; in line 7 strike
- 21 "ninety-five percent of"; in line 13 after "system's" insert
- 22 "preliminary"; and in line 16 after the underscored period insert
- 23 "Each local system's allocated income tax funds shall be calculated
- 24 by subtracting the difference of the temporary aid adjustment
- 25 factor minus the reduction in net option funding due to the
- 26 temporary aid adjustment factor from the preliminary allocated
- 27 income tax funds, except that a local system's allocated income tax
- 28 funds shall not be less than zero.".
- 29 6. On page 20, lines 2 and 10, strike "years" through
- 30 "2004-05" and insert "year 2002-03"; and strike beginning with
- 31 "will" in line 11 through the last "plus" in line 13 and insert
- 32 "shall be calculated by subtracting the temporary aid adjustment
- 33 factor from the sum of the local system's transportation allowance,
- 34 the local system's special receipts allowance, and".
- 35 7. On page 21, line 1, strike "years" through "2004-05"
- 36 and insert "year 2002-03"; strike beginning with the comma in line
- 37 12 through "2004-05" in line 13; and in line 14 strike "eighty" and
- 38 insert "83.75".
- 39 8. On page 22, line 3, strike "State aid plus", show as
- 40 stricken, and insert "The sum of state aid, receipts from other
- 41 school districts related to annexation, and".
- 42 9. On page 23, line 3, strike "years" through "2004-05"
- 43 and insert "year 2002-03"; and in line 28 strike "years" through
- 44 "and" and insert "year 2002-03".
- 45 10. On page 24, line 1, strike "2004-05"; and in lines

- 22 11 and 16 strike "eighty-five" and insert "88.75".
- 23 11. On page 25, line 27, strike "years" through
- 24 "2004-05" and insert "year 2002-03".
- 25 12. On page 26, lines 4 and 5, strike "years" through
- 26 "2004-05" and insert "year 2002-03"; in line 5 strike "means"
- 27 through "of" and insert "shall be calculated by subtracting the
 1 temporary aid adjustment factor from"; and in line 9 after
 2 "79-1007.01" insert ", except that a local system's net option
 3 funding shall not be less than zero".
- 4 13. On page 27, lines 13 and 22; and page 30, line 24,
 5 strike "April 1," and show as stricken and after the stricken
 6 "1999" insert "May 1,".
- 7 14. On page 28, line 15, strike "79-1026, 79-1027, and";
 8 in line 17 strike "such sections" and insert "section 79-1022 and
 9 section 17 of this act"; and in line 18 strike "April 1, 2002" and
 10 insert "May 1, 2002, using data sources as they existed on February
 11 1, 2002".
- 12 15. On page 35, lines 8 and 18, strike "April" and
 13 insert "May"; and in line 13 strike "May" and insert "June".
- 14 16. On page 36, line 20, strike "ninety-five" and insert
 15 "98.75".
- 16 17. On page 37, line 8, strike "April" and insert "May";
 17 and in line 26 strike "April 19" and insert "May 21".
- 18 18. On page 38, line 17, strike "May" and insert "June".
- 19 19. Renumber the remaining sections, correct internal
 20 references, and amend the repealer accordingly.

(Signed) Ron Raikes, Chairperson

AMENDMENTS - Print in Journal

Senator Schimek filed the following amendment to LB 1309:
 AM3175

(Amendments to Standing Committee amendments, AM3079)

- 1 PURPOSE: To restore funding, to keep the prescription drug copay
- 2 at the one-dollar level instead of the proposed two-dollar level.
- 3 AMENDMENT:
- 4 1. On page 52, line 3, strike "430,289,898" and insert
- 5 "430,889,898"; in line 7 strike "743,232,558" and insert
- 6 "744,132,558"; in line 8 strike "1,180,372,456" and insert
- 7 "1,181,872,456"; in line 15 strike the new matter and insert
- 8 "\$430,889,898"; and in line 16 strike the new matter and insert
- 9 "\$744,132,558".

Senator Smith filed the following amendment to LB 1309:
 AM3187

(Amendments to Standing Committee amendments, AM3079)

- 1 1. Strike section 131.
- 2 2. On page 66, line 26, strike "118,296,355" and insert
- 3 "118,116,576".
- 4 3. On page 67, line 4, strike "135,403,829" and insert

5 "135,224,050".

6 4. On page 149, line 10, strike "234,"; and in line 15
7 after "139" insert "to 142, 144".

8 5. Renumber the remaining sections accordingly.

Senator Chambers filed the following amendments to LB 488:
FA923

Amend AM2603

Page 2, line 24 strike "twenty-five" and insert "five".

FA924

Amend AM2603

Page 2, line 24 strike "twenty-five" and insert "ten".

FA925

Amend AM2603

Page 2, line 24 strike "twenty-five" and insert "fifteen".

FA926

Amend AM2603

Page 2, line 24 strike "twenty-five" and insert "twenty".

Senator Chambers filed the following amendment to LB 1003:

FA927

Amend AM3044

Add: "2. On page 2, line 6, after "authority" insert "only when in uniform or accompanied by an employee in uniform".

MOTIONS - Print in Journal

Senator Brashear filed the following motion to LB 946:
Bracket LB 946 until April 19, 2002.

Senator Brashear filed the following motion to LB 946:
Recommit LB 946 to the Revenue Committee.

Senator Brashear filed the following motion to LB 946:
Indefinitely postpone LB 946.

AMENDMENTS - Print in Journal

Senator Raikes filed the following amendment to LB 898:
AM3193

(Amendments to Standing Committee amendments, AM3171)

- 1 1. Strike sections 1, 14, 16, and 17.
- 2 2. On page 1, lines 22 and 23, strike the new matter and
- 3 insert "and sections 4 and 12 of this act".
- 4 3. On page 5, lines 21 and 22, strike the new matter.
- 5 4. On page 27, strike beginning with "and" in line 20

- 6 through "are" in line 21 and insert "is"; and in line 23 strike
 7 "and section 17".
 8 5. Renumber the remaining sections, correct internal
 9 references, and amend the repealer accordingly.

Senator Tyson filed the following amendment to LB 1309:
 AM3194

(Amendments to Standing Committee amendments, AM3079)

- 1 1. On page 79, lines 10 and 11, strike "427,727,796" and
 2 insert "405,806,464"; and in line 23 strike "\$2,349,894" and insert
 3 "\$2,231,790".
 4 2. On page 80, line 17, strike "\$11,546,225" and insert
 5 "\$10,965,923"; and in line 23 strike "\$313,625" and insert
 6 "\$297,863" and strike "\$11,546,225" and insert "\$10,965,923".
 7 3. On page 83, line 4, strike "\$23,504,351" and insert
 8 "\$22,323,044".

Senator Brashear filed the following amendment to LB 1085:
 FA932

Amend AM3155

On page 8, lines 6 through 8, strike "Gross receipts shall not mean gross income received from telephone directory advertising." and show as stricken.

Senator Preister filed the following amendment to LB 1309:
 AM3189

(Amendments to Standing Committee amendments, AM3079)

- 1 1. Insert the following new section:
 2 "Sec. 7. After the effective date of this act, no agency
 3 may expend any funds appropriated by the Legislature for private
 4 service contracts.".
 5 2. Renumber the remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 1310. Senator Chambers offered the following amendment:

FA920

Amend FA917

Strike section 10.

Senators Engel, Brashear, Bruning, and Brown asked unanimous consent to be excused. No objections. So ordered.

Senator Maxwell asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER KRISTENSEN PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 9:

Baker	Dierks	Jensen	Price	Schimek
Chambers	Janssen	Pedersen, Dw.	Robak	

Voting in the negative, 29:

Aguilar	Coordsen	Kristensen	Redfield	Thompson
Beutler	Cunningham	Kruse	Schrock	Tyson
Bromm	Erdman	Landis	Smith	Vrtiska
Burling	Foley	Pederson, D.	Stuhr	Wehrbein
Byars	Hudkins	Quandahl	Suttle	Wickersham
Connealy	Jones	Raikes	Synowiecki	

Present and not voting, 3:

Kremer	McDonald	Preister
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Excused and not voting, 8:

Bourne	Brown	Cudaback	Hartnett
Brashear	Bruning	Engel	Maxwell

The Chambers amendment lost with 9 ayes, 29 nays, 3 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment:

FA921

Amend FA917

Strike section 7.

Senators Schrock, Byars, D. Pederson, Hudkins, Smith, Maxwell, and McDonald asked unanimous consent to be excused. No objections. So ordered.
Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 317. Introduced by Engel, 17.

WHEREAS, the South Sioux City High School girls' basketball team is the champion of the 2002 Class B Nebraska Girls' State High School

Basketball Tournament, repeating its championship successes of 1995, 1996, 1997, 1998, 2000, and 2001; and

WHEREAS, the 63-48 win over a talented Lincoln Pius X High School team in the final game capped the Lady Cardinals' Girls' Class B State Basketball Championship; and

WHEREAS, Head Coach Kelly Flynn guided the South Sioux City High School girls' basketball team to the No. 1 ranking in Nebraska; and

WHEREAS, throughout the year the South Sioux City Lady Cardinals have complemented their talents with the characteristics of sportswomanship, determination, and diligence; and

WHEREAS, the South Sioux City Lady Cardinals are positive role models for young athletes in the community and throughout the region; and

WHEREAS, such a team achievement is made possible not only by individual members' performance and coaching guidance but also through the support of teachers, administrators, and parents.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature recognizes and congratulates the South Sioux City Lady Cardinals basketball team and the coaches, parents, and supporters.

2. That a copy of this resolution be sent to the South Sioux City Lady Cardinals' basketball team.

Laid over.

VISITORS

Visitors to the Chamber were 39 students, teachers, and sponsors from Stoddard Elementary School, Beatrice.

The Doctor of the Day was Dr. Brad Palmer from Lincoln.

ADJOURNMENT

At 5:51 p.m., on a motion by Senator Coordsen, the Legislature adjourned until 9:00 a.m., Wednesday, March 20, 2002.

Patrick J. O'Donnell
Clerk of the Legislature

